

MEETING MINUTES

MILPITAS PLANNING COMMISSION Milpitas City Hall, Council Chambers 455 E. Calaveras Blvd., Milpitas, CA

Wednesday, November 24, 2014

- I. PLEDGE OF ALLEGIANCE** **Chair Mandal** called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II. ROLL CALL/ SEATING OF ALTERNATE** **Commissioners**
Present: Chair Sudhir Mandal, Commissioners Gurdev Sandhu, John Luk, Alternate Member Hon Lien
Absent: Larry Ciardella, Garry Barbadillo, Rajeev Madnawat.
Commissioner Morris was absent at roll call and arrived at 7:05 PM.
Staff: Steven McHarris, Johnny Phan
- III. PUBLIC FORUM** **Chair Mandal** invited members of the audience to address the Commission and there were no speakers.

Rob Means spoke of evidence from the scientific community showing there is a global crisis and the need to address it.
- IV. APPROVAL OF MEETING MINUTES** **Chair Mandal** called for approval of the November 12, 2014 meeting minutes of the Planning Commission.

Motion to approve Planning Commission meeting minutes as submitted.
Motion/Second: Commissioner Sandhu/Commissioner Luk
AYES: 4
NOES: 0
ABSTAIN: 0
- V. ANNOUNCEMENTS** No announcements
- VI. CONFLICT OF INTEREST** **Assistant City Attorney Johnny Phan** asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.

There were no reported conflicts.
- VII. APPROVAL OF AGENDA** **Chair Mandal** asked if staff or Commissioners had changes to the agenda and there were none.

Motion to approve the November 24, 2014 agenda as submitted.
Motion/Second: Commissioner Sandhu/Commissioner Luk
AYES: 4
NOES: 0

**VIII. CONSENT
CALENDAR**

NO ITEMS

IX. PUBLIC HEARING

IX-1

INTEGRAL DISTRICT 1 AMENDMENT – 1400 McCandless Drive – SD13-0010, MT13-0005, UP13-0009: A request to amend the previously approved Site Development Permit, Major Tentative Map and Conditional Use Permit for District 1 changing the proposed mixed use buildings on lots 2 and 4 to 108 townhouses, the relocation of the urban plaza and associated site improvements.

Steven McHarris, Director of Planning and Neighborhood Services, provided a presentation reviewing the project. He said there is a long history on this project dating back to 2008 and that it originally came in as a concept with 1,800 dwelling units and 140,000 sf of retail but has been reduced to 826 dwelling units and 57,000 sf of retail.

Mr. McHarris gave an overview of the TASP vision statement and said the TASP consists of mixed use and transit oriented development and that TASP residents may rely less on the automobile with use of mass transit for transportation.

Mr. McHarris reviewed the background and history of the original project approved in 2010 and the amendments and reductions of units and retail since then. He explained the impacts of the developers proposed amendments including the erosion of the TASP vision and fiscal impacts to the city including the potential loss of up to \$16.3 million in TASP fees.

Commissioner Sandhu said he was on the commission when the project was originally proposed and has seen many changes to the project. He asked if City staff has made efforts to work with the applicant on solutions and Mr. McHarris said they have worked together for some time, but have not reached a place that satisfies both while remaining consistent with the TASP. As a result staff is providing all of the analysis of the project as proposed compared to the TASP, General Plan, Zoning Ordinance, and policies and identifying where the project does not comply. Staff does not see it as a project that would fit the vision of the TASP.

Commissioner Morris asked about the loss of revenues due to the applicant's changes and Mr. McHarris said there is the potential to lose millions of dollars.

Commissioner Luk asked about the commercial space on the project. Mr. McHarris explained that there has been a good working relationship with the developer and the developer was able to amend the plans as the economy was not good and we were coming out of a recession; however, the recession is behind us and the economy is growing and if rooftops do not come in then the low number of residential units will be unable to support the planned commercial space.

Chair Mandal invited the applicant to speak.

Evan Knapp with Integral Communities said they are relying on very specific language outlined in the TASP and that they are consistent with the TASP, the Zoning Ordinance and with the policies. He provided a PowerPoint presentation and discussed the project. He discussed the retail and referenced a copy of a letter from Lyon Communities stating that they have renewed interest in purchasing Lot 1 of The District from Integral Communities and breaking ground in the first quarter of 2015.

Mr. Knapp said that it has taken 2 ½ years to plan check this building through the City to get it to a place to pull a permit, and they have been making specific requests to pull that permit as the building plans are getting ready to expire, which would force another lengthy redesign and another delay.

Mr. Knapp said the commercial building is not changing and the retail square footage is the same as it always has been. He referenced a building from the Center Pointe project and said it is being incorporated into this site, and that it still has and meets all of the commercial space set in the TASP, so the notion that they have a reduction of overall retail square footage is false. He said they are relocating some square footage, and they want the commercial space to be visible from Great Mall Parkway/McCandless corner because they want it to be successful.

Mr. Knapp said they are asking for an amendment to lots 2 and 4 to be able to reduce the overall density for this site and offer a diversification of real estate products. Mr. Knapp said they moved 6,000 square feet of space from lots 2 and 4 closer to Great Mall Parkway to ensure its success, that nobody wants empty retail space, and this is about averaging density and where to put the retail space, not a reduction of it.

Mr. Knapp said the proposed retail locations match the TASP Illustrative plan and their plans conform to the TASP. He said they planned their community incongruous with what the zoning allowed them to do and the fact of the matter is that once you apply density averaging as a policy in the TASP between high traffic areas, lower traffic areas, residential areas and mixed use areas, they exceed that plan by 83 units.

Mr. Knapp added that the fiscal information given by Mr. McHarris is draconian and can be cleared up through a simple fiscal impact analysis and he does not agree with the fiscal impact described by Mr. McHarris.

Kevin Maguire from Maguire Associates spoke to the commission and said he was hired by Lyon Communities to ensure that the retail will be successful.

Commissioner Morris asked about the concern with the capacity to support the retail and Mr. Knapp said the retail will rely on people coming into the TASP, not just those living there, and that their plan is consistent with TASP policies.

Chair Mandal asked Mr. Knapp if he agreed with staff that they are reducing the retail from 80,000 sf to 52,000 sf and he said that he does not agree with it and it is not accurate. He said they include 58,000 sf of retail in one building and 35,000 sf of retail in the Centre Pointe project.

Commissioner Luk asked for clarification from the applicant on the proposed changes and Mr. Knapp said they are asking for the District 1 map to be amended to allow another product type which includes a reduction of density and for Centre Pointe map approval. He added that they would like to have more for-sale product, and a blend of housing types, and that it is more of a market trend and not a fiscal component.

Commissioner Morris asked about the zoning and general plan for the transit area and how this project fits. Mr. McHarris explained that there is a vision and policies for the transit area. In regards to moving retail and pushing it forward, Great Mall Parkway in the transit area is not a highway commercial zone and is not meant to attract drivers from Great Mall Parkway. The mixed-use design and intent was to integrate retail through the area and there is no transferring of retail permitted as the land use zones are for commercial retail, and if the applicant wants to move all of that retail up front they

would need to request a plan amendment. As proposed, the retail would disappear and there is more retail area required and expected in the TASP and vision than proposed.

Chair Mandal opened the public hearing.

Speakers

A gentleman who works for a company close to Milpitas spoke regarding the construction and parking issues. He feels those living on McCandless are suffering from the construction. His preference is to have the retail in the back as there are parking issues.

Hans VanLigten, of Rutan and Tucker, referenced Figure 4.12 of the TASP plan stating how the property can be developed consistent with the plan and the development of retail is clustered against major streets exactly the way it is being proposed. He said it seems that part of the vision is being ignored but that is exactly how it was adopted.

Ms. Kaufman-Nunez, a Milpitas resident, spoke in support of staff's recommendation to deny the project. She said the developer will be gone after the project is done, but that it would be wonderful to see a Santana Row of Milpitas and this is a good location for it.

Bob Nunez, a Milpitas resident, said he supports staff's recommendation. He would like the developer to stay with the vision, quit changing it, and finish construction.

Rob Means, a resident who lives on Yellowstone, discussed the definition of sociopaths and said that corporations are sociopaths and focused on one thing, the bottom line and how much money they can make. He said this corporation wishes to reduce the housing density, which they have already done once; however, this is a transit oriented area and we are in a climate crisis and need denser housing, which is more energy efficient and allows people to use mass transit for their daily needs.

Bill Ferguson, a resident who lives on Rivera Street, said this is the developer who spent \$10,000 on the City's recent council election in an attempt to influence the election, and feels when there is a difference of opinion with staff and a developer that residents should trust City staff.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Luk

AYES: 5

NOES: 0

Commissioner Sandhu said he has been on the commission since this project was first approved and that it has changed continuously, losing the vision, and he supports staff's recommendation to deny the project.

Commissioner Morris stated that the project was not what we're envisioning here in Milpitas.

Chair Mandal said the vision was developed by many, and it's important to carry forward the vision. He said Milpitas has some problems, for instance there is no school

or shopping center in that part of the development and he would like those residents to be able to walk and shop right there instead of going to San Jose and spending their money there, or needing to travel to North San Jose. He wanted the original vision of the Transit Area plan to move forward, stated not enough retail space was contained within Integral's project. He added most of that retail was only located along Great Mall Parkway, and stated just building everything in the front means you're building a strip mall and it doesn't make sense. He said we don't have too many places in Milpitas to develop; this is one opportunity that we have to create something better and he will support staff's recommendation.

Motion to adopt Resolution No. 14-036 recommending the City Council deny the Major Tentative Map, Site Development Permit and Conditional Use Permit amendments to eliminate Lot 3 (mixed-use building with approximately 169 dwelling units and 27,187 of retail square footage) from District 1 Project, and replace two approximately 400,000 square foot mixed-use buildings on Lots 2 and 4 totaling 392 residential units and approximately 6,000 square feet of commercial-retail space with 108 townhouse dwelling units on 4.79 acres.

Motion/Second: Commissioner Sandhu/Commissioner Morris

AYES: 5

NOES: 0

IX-2

INTEGRAL CENTRE POINTE MIXED USE – 1463 Centre Pointe Drive – SD13-0013, MT13-0007, UP13-0013: A request for a Site Development Permit, Major Tentative Map and Conditional Use Permit for the construction of 362 apartment units, approximately 55,431 square feet of commercial space in a mixed use building and approximately 241 condominium/townhouse units and associated site improvements on 15.68 acres.

Steven McHarris provided a presentation reviewing the project and discussed the developers proposed site plan and the project inconsistencies.

Commissioner Morris asked if staff has tried working with the applicant to come to agreement and Mr. McHarris said that staff is willing to work together but is not willing to accept what has been proposed as there are clear fundamental differences in the applicant's vision and the City's TASP vision.

Evan Knapp reviewed a PowerPoint presentation and said that he wanted to make it clear that the commissioners are looking at a new map and said the project vision is not just theirs but was extrapolated from the City's plan. Mr. Knapp said they are not asking that the vision be compromised and that they are quoting specific language from the TASP. He said they have not abandoned high density and this is the first time in his career that staff has requested more density than what is proposed by the developer.

Mr. Knapp said the fundamental difference is that there is no retail where suggested in the past however this is not mandatory as they had approval for it in other areas. He said the TASP was written in such a way that it allows for success of an overall vision and gives flexibility for designs that make sense and work. He said it isn't that their plan doesn't work, it does, but that it is a difference of opinion.

Mr. Knapp said it is important to note that as recently as June they had agreement on both of the concepts and then for some reason unbeknownst to him the support went away. He said they are not proposing to eliminate density and are over the minimum by over 200 units on this subdivision. He said they want more density over the minimum

but staff appears to want even more than that and they have a hard time with that, partially due to street configurations and the lack of frontage on Montague.

Armenta Jensen, of Ruggeri Jensen Azar, discussed circulation and street sections, and the proposed elimination of Bond Street, which is just 24 feet in length. She said that an important attribute of a planning document such as the TASP is flexibility in final design. She said plans are done at a very high level and that when they start final design there has to be appropriate flexibility in the document in order to implement a good design that is good for the residents and the city and that is safe.

Commissioner Morris asked about parking and Mr. Knapp explained that retail parking is available on Market and McCandless, in compliance with the TASP, and they meet the balance of the parking in a parking structure. Commissioner Morris said she would like to see staff and the applicant come to an agreement as she sees a lot of value in this project.

Mr. Knapp said they are a property owner, not just an applicant, and they believe in Milpitas. He said they have tried to settle differences and at one time had agreement on the maps seen tonight, and then didn't have agreement, for reasons he does not understand. They have never disagreed with the density and retail space but the question is location and they want to place it where it will be successful.

Chair Mandal opened the public hearing and there were no speakers.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Luk

AYES: 5

NOES: 0

Commissioner Morris made a motion that the applicant and the City continue to work together on this project to find flexibility and common ground, and clear up any misinterpretations. No one seconded her motion so there was no vote taken.

Motion to adopt Resolution No. 14-038 recommending the City Council deny the Major Tentative Map, Site Development Permit and Conditional Use Permit for 362 apartment units, approximately 55,431 square feet of commercial space in a mixed use building and approximately 241 condominium/townhouse units and associated site improvements located in the McCandless/Centre Pointe and Montague Corridor Sub-Districts of the Transit Area Specific Plan (TASP).

Motion/Second: Commissioner Sandhu/Commissioner Luk

AYES: 4

NOES: 0

ABSTAIN 1 Morris

ADJOURNMENT

The meeting was adjourned at 10:00 PM to the next meeting scheduled on Wednesday, December 10, 2014.

Motion to adjourn to the next meeting on December 10, 2014

Motion/Second: Commissioner Sandhu/Commissioner Luk

AYES: 5

NOES: 0

*Meeting Minutes submitted by
Planning Secretary Elia Escobar*